

## Bankruptcy added insult to injured and ill

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Cheryl Benson is on the brink of bankruptcy -- despite the \$1 million verdict she won against an area hospital.

While she waits for the resolution of Florida Hospital-Ormond Memorial's appeal of last year's verdict, her medical, legal and living expenses have mounted to a debt that's fast approaching six figures, she says.

She's one of many Americans whose downward financial spiral began with medical bills, and she's watching with concern this week as Congress considers measures to tighten the bankruptcy laws.

Benson, of Port Orange, has suffered constant pain for eight years since an IV leaked outside her veins after exploratory surgery. Now she and her husband have hired a bankruptcy lawyer to fend off creditors while they consider bankruptcy.

It's a decision she says she never thought she'd have to make.

"Some people reach a point of no return," she said. "It's real hard to keep up paying everything, knowing that you are getting in deeper and deeper."

More often, Americans are falling in the hole. In 1996, the number of bankruptcy petitions topped 1 million -- double the number from the previous decade. Last year, that number reached almost 1.6 million.

Looking to halt that runaway number, Republicans have tried for eight years to make it harder to file bankruptcy, an effort that seems to be picking up steam. Several amendments proposed by Democrats that would have lessened the effects of a proposed law have gone down to defeat, and debate is expected to end in the Senate this week.

If the tougher bankruptcy standards are passed by the U.S. Senate and House, they would become law 180 days after receiving President Bush's expected signature.

"It's time to promote responsible borrowing while also ensuring the safety net offered by bankruptcy," said U.S. Sen. Chuck Grassley, R-Iowa, in a written statement provided by his office.

Grassley, who sponsored the current legislation, said bankruptcy "was not intended to be a convenient financial planning tool where deadbeats can get out of paying their debt scott-free while honest Americans who play by the rules have to foot the bill."

A recent survey suggests, however, that the bankrupted are not only free-spending shopaholics. Half of those filing for bankruptcy had medical bills and illness, according to a study done by researchers with ties to Harvard University and Physicians for a National Health Plan, and many of them had some kind of health insurance.

Local bankruptcy lawyers are split on whether they've seen the same pattern among their clients.

Ormond Beach lawyer Martin Boire said he's visited clients on their deathbeds who were signing bankruptcy papers so their relatives wouldn't have to deal with the debts from health care and ancillary costs.

"They are that debilitated health-wise, and yet the creditors are at the door," Boire said.

But Armistead Ellis Jr., a Daytona Beach lawyer, said divorce, medical bills and credit cards share equal billing among his cases because the typical middle class family carries too much consumer debt.

"We're just one minor step away from financial disaster," he said. "People are living right up to the level of their incomes."

A provision that limits individuals' access to Chapter 7 of the bankruptcy code is at the heart of the legislation Congress is discussing. Under Chapter 7, filers can sharply limit payments on their obligations and get a fresh start. In Florida, creditors can't touch a filer's homestead or furniture and filers have the right to a car worth \$1,000.

Under the proposed bill, bankruptcy filers who earn more than the median income and can pay at least \$6,000 over five years would have to seek protection from their creditors under Chapter 13, which requires a repayment plan.

Walter J. Snell, a Daytona Beach bankruptcy lawyer, said the new provisions, if voted into law, would cost the bankrupted more in legal services as attorneys try to determine whether a client was eligible for Chapter 13 or Chapter 7.

He said it's ironic that lobbyists from credit card companies are pushing this legislation and called bankruptcy "a necessary evil in a system where credit cards are given to pretty much everyone."

Cindy Benson of Edgewater (no relation to Cheryl Benson) and her husband had to give up all their credit cards after declaring bankruptcy two years ago. Their son, Jerry Remington, had been severely ill with cystic fibrosis for about five years before he died a year ago at age 25.

Cindy Benson had been able to work cleaning houses only sporadically during that time. And while Medicaid paid most of his medical bills, travel expenses and missed days at work eventually added up to \$37,000 worth of debt.

Some of it had to do with giving her son his dying wishes, she said. "If he wanted a steak for dinner, he got a steak for dinner."

The family's life hasn't changed much since the bankruptcy. They drive a minivan with more than 100,000 miles on it, but she was able to keep her diamond engagement ring.

"It's not like we had anything of that much value," she said.

She said starting over financially has been the easier part of her ordeal. "The hard part is going on after your child dies."

Laina Roy, 46, of New Smyrna Beach is facing her second trip in front of a bankruptcy judge. After her business failed in 1993, she got back on her feet working as an office manager for Surgical Associates of Volusia -- a job that provided medical insurance. But then her husband had a heart attack and she was in a car accident. Her doctors say it will be at least five years before she can work again.

Roy and her husband cashed in his retirement savings to try to pay those expenses, including a \$102,000 specialized surgery not covered by their insurance. Last year they paid thousands of dollars in out-of-pocket prescription costs.

On the prospect of increased scrutiny in bankruptcy court, Roy said, "I think we've suffered enough."

Dr. Randall Whitney, medical director of Daytona Beach's Family Planning Clinic and a member of Physicians for a National Health Plan, is talking about the Harvard study as much as he can to promote the idea of socialized medicine. He said tying health insurance to jobs doesn't make sense because catastrophically ill people can't work. The study's findings that many of those bankrupted after illness had insurance proves to him the system is critically ill.

"We have a lousy health-care system in this country and it's only getting worse," Whitney said. He said he's grateful his arrhythmia and hypertension didn't require surgery until after he turned 65 and qualified for Medicare.

"I would be bankrupt if I had to pay for those surgeries," he said.

Other area doctors -- while agreeing bill collection is getting more difficult -- say they don't believe universal health care would provide quality medical care or stop the tide of bankruptcies.

Dr. Carl Lentz Jr., recent past president of the Volusia County Medical Society, said, "I think the whole country would go bankrupt then."

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## **AVOIDING BANKRUPTCY**

*Some of these tips are simple; others depend on individual circumstances:*

- Live within your means and don't spend what you don't have.
- Make sure your family has adequate insurance, particularly disability insurance, so you'll be able to pay your bills even if you can no longer work. If it's not available through your employer, you could consider getting disability insurance, which can cost as little as \$2 a day.
- Don't make speculative or high-risk investments.
- Maintain a realistic budget. Computer programs are available free on the Internet to help you plan a budget to keep you afloat, plan for retirement or save for a vacation.
- Stick to one credit card -- one with a low interest rate (under 13 percent). And pay it off as soon as possible.
- Mortgage or rent payments should not exceed more than a quarter of your monthly income.

· A reserve of three to six months of living expenses should be available at all times for emergencies. If the amount of your monthly living expenses adds up to \$3,000, the amount of your "emergency fund" should be between \$9,000 and \$18,000.

-- *Compiled from Internet research*

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